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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/996,514 | 11/28/2001 | John Klein | A34617 | 3524 |
| 21003 | 7590 | 04/07/2005 | EXAMINER | |
| BAKER & BOTTS 30 ROCKEFELLER PLAZA NEW YORK, NY 10112 | | | NGUYEN, TU X | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2684 | |

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/996,514

Applicant(s)

KLEIN ET AL.

Examiner

Tu X Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-10, 12 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Claims 4 and 11, have been cancelled.
2. Applicant's arguments filed 11/05/04 have been fully considered but they are not persuasive.

In respond to applicant argue Mitra et al. and Walton et al. combination is not a proper motivation basis. However, Walton et al. disclose "it permits the mobile station to begin an access by transmitting its signal with more power than is needed" (see col.7 lines 7-10). In Walton et al. alternative embodiment in hand off situation, the mobile ignores the power command of the current base station while trying access another base station for hand off.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2,5-6, 8-9 and 12, are rejected under 35 U.S.C. 102(b) as being anticipated by Mitra et al. (US Patent 5,732,328).

Regarding claim 1, Mitra et al. disclose a wireless local area network (see col.5 lines 44-45) wherein mobile units receive beacon signals from access points (see col.10 lines 1-2) and associate with access points for data communications therewith, a

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method for controlling transmitter power level of a mobile unit, comprising transmitting from an access point to said mobile unit data representing transmitter power level for said access point (see col.7 lines 35-40); receiving at said mobile unit said access point transmitter power level data; and adjusting transmitter power level of said mobile unit in accordance with the value of said access point transmitter power level data (see col.10 lines 40-59), wherein said access point transmitter power level data is transmitted as part of said beacon signal (see col.9 lines 19-21, the "supervisory signal include information about the power level can be read by the wireless terminal", wherein the supervisory signal is part of beacon signal as indicated on col.10 lines 1-6).

Regarding claim 2, Mitra et al. disclose adjusting power level of said mobile unit comprises setting said mobile unit to a power level corresponding to said access point transmitter power level data (see col.10 lines 41-59, "set" its signal transmission power corresponding to "adjust").

Regarding claims 5 and 12, Mitra et al. disclose adjusting power level of said mobile unit is performed when said mobile unit associates with an access point (see col.10 lines 40-59).

Regarding claim 6, Mitra et al. disclose everything as claim 1 above. More specifically, Mitra et al. disclose access points transmitting at different power levels (see col.4 line 60 through col.5 line 7) and inherently disclose a processor so that it has capability to receive data signals from said receiver and programmed to derive power level data from signals received from said access points and to provide corresponding power level signals to said transmitter (see col.10 lines 40-59).

Regarding claim 8, Mitra et al. disclose everything as claim 1 above. More specifically, Mitra et al. disclose access points with adjustable transmitter power level and distributing said access points over an area with varying spacing between access points (see col.4 line 60 through col.5 line 7);

adjusting power level of said mobile unit is performed when said mobile unit associates with an access point (see col.10 lines 40-59).

Regarding claim 9, Mitra et al. disclose said power level data signals represent the same power level as said power level data (see col.10 lines 52-59, "desired transmission power" corresponding to "represent the same").

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 7, 10 and 13, are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitra et al. in view of Walton et al. (US Patent 6,542,488).

Regarding claims 3, 7, 10 and 13, Mitra et al. fail to disclose adjusting power level of said mobile unit comprises setting said mobile unit to a power level a selected amount greater than a power level corresponding to said access point transmitter power level data.

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Walton et al. disclose adjusting power level of said mobile unit comprises setting said mobile unit to a power level a selected amount greater than a power level corresponding to said access point transmitter power level data (see col.7 lines 21-27). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Mitra et al. with the above teaching of Walton et al. in order to quick channel access without waiting for power control packet sending from base station for handoff.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu Nguyen whose telephone number is 703-305-

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3427. The examiner can normally be reached on Monday through Friday from 8:30AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MAUNG NAY A, can be reached at (703) 308-7745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

TP
March 31, 2005


NICK CORSARO
PRIMARY EXAMINER